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The following paper on The Incorri-

gible Consumptive,—The Isolation of Persons Ill with Communicable Diseases, by the late Chester Bryant, formerly agent of the Haverhill Board of Health, was read by Dr. Elliot Washburn, Superintendent of the Rutland Sanatorium.

THE INCORRIGIBLE CONSUMPTIVE—THE ISOLATION OF PERSONS ILL WITH COMMUNICABLE DISEASES.

CHESTER BRYANT,

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THE problem of the vicious, incorrigible consumptive is one that probably no community of any size has escaped, and it has seemed to me that the legal side of the problem and the lack of a definite specific law whereby the unteachable, incorrigible and drunkard consumptive, who refuses to heed any demands of the health authorities, may be compulsorily segregated, are not the least trying of the many difficulties against which health officials have to contend.

The Massachusetts law makes it mandatory upon boards of health to care for this class of consumptives regardless of their conduct or their habits, and we fully understand this and know that under the present inadequate health laws, or the court's interpretation of them, we are absolutely helpless to remedy the present unfortunate condition of affairs.

The law requires each city to provide hospital accommodations for persons sick with tuberculosis and to aid them in other ways, but I do not for a moment believe that it was the inten-

tion of the legislature that patients of the class to which I have referred should themselves run and control these institutions which are built and maintained for the comfort, treatment and relief of persons ill with tuberculosis, at a considerable expense to the citizens who supply the money for their maintenance.

If these drunkards and trouble-makers refuse to obey the rules and become otherwise objectionable in our state sanatoria, they are simply discharged from these institutions; but it is a duty, as I have said, made mandatory upon the city where these patients have a legal settlement, not only to make provision in some way for them, but to protect our citizens against the spread of tuberculosis as well.

This class of patient does just as he pleases at the hospital, goes out when he pleases and returns when he pleases, not infrequently under the influence of liquor, grossly insults the nurses and attendants, and absolutely refuses to obey the rules of the institution.

Our local tuberculosis hospitals are

not prisons, and there is no way by punishment, that I know of, to compel a person ill with tuberculosis to obey the hospital rules or to enforce the reasonable requirements of their management. Altogether, their conduct is such as to upset all discipline, and there should be some way to prevent them from seriously impairing or destroying the usefulness of our local hospitals. Already it is difficult enough to induce tuberculosis patients to enter them, and if there is no way to remedy the conditions that I have tried to describe, we might just as well close up the hospitals at once, because decent and self-respecting tuberculosis patients cannot be induced to enter them for treatment.

We have had two men in our hospital for more than five years and during that period we have paid out between three thousand and four thousand dollars for their board, clothing, etc. Both of them are alcoholics and unmanageable, although everything possible has been done for their comfort and welfare and to make them contented. One of them has been in the Lakeville State Sanatorium once and three times in the state sanatorium at North Reading, and their conduct while at these institutions was such that their superintendents felt compelled to notify us that these two patients will not be readmitted. One of them we were afterwards compelled to discharge from our tuberculosis hospital, on account of the trouble that he made for the attendants and the patients and the superintendent, who threatened to resign if he were not cared for elsewhere. Being obliged to pro-

vide for him in some way, we arranged to board him at a restaurant until other provision could be made for him. He is now maintained in a small portable cottage, which he occupies alone, on the city hospital grounds.

If we are to arrive finally at the complete control and ultimate eradication of tuberculosis, we must have laws, clear and specific, and reasonably administered, for the compulsory care of advanced cases of tuberculosis, a surprisingly large number of whom are ambulatory and alcoholics, who are unwilling to carry out essential sanitary precautions.

Dr. Bradford Pierce of Cambridge diagnoses the situation pretty accurately when he says, "If we are to have the responsibility let us have the authority and respect necessary for us to assume it."

Consistent, insistent and persistent efforts to educate the young so that they may know how to avoid infection, the backing and coöperation of local courts to secure the rigid enforcement of laws and regulations, clear, specific and definite, in the case of sufferers from this malady, and the erection and maintenance of a special state hospital where incorrigible and careless tuberculosis patients may be committed, similar to disposing of the common drunkard by the courts or magistrates for care and treatment, are the only methods that will ever reduce tuberculosis to a negligible factor in any community.

Under the authority of the Massachusetts legislature, repeated investigations and reports upon the system of caring for tuberculosis have been

made. The last report was made this year by a special recess committee of the legislature. Accompanying the report of this committee were two bills, providing for the care, treatment, removal and segregation of incorrigible tuberculosis patients.

It is to be regretted that these bills failed of passage in the legislature, for I confidently believe that by their enactment into law very great benefits would have accrued. Just why they were rejected by the committee to whom they were referred, no one seems to know; but it was probably due to the prevailing notion in the minds of many of our law-makers that health officials, who are struggling honestly and faithfully to serve most helpfully, and not possessed of sufficient intelligence, honesty of purpose, discretion and trustiness to avoid arbitrary exercise of authority conferred upon them.

But the movement for the suppression of tuberculosis has just begun, and there are, therefore, many loose screws in the machinery. Take, for instance, the discontented patient. He becomes tired of the hospital in his "settlement town" where he is being cared for, and feels the need of a change of environment. Without saying a word he packs up his traps and goes to Boston, Brockton, Springfield or to whatever town he may select. So in a few days a notification is received that he has been received into a nearby or a distant tuberculosis hospital, and a demand is made for reimbursement for the expenses of his board and treatment at this hospital. There is no law by which to

compel his return to the town of his legal place of settlement; and the law makes it mandatory upon the board of health of the city that the patient has selected for his place of residence to provide for him, and the patient's "settlement town" must pay the bills for his hospitalization, although such town may have a hospital of its own—perhaps ordered by the State Board of Health—properly equipped, with expensive hospital facilities, with abundant room and with plenty of nurses and attendants with little to do, because patients that should be there are in hospitals in other cities where they do not properly belong. It is surely most essential that some means should be devised to prevent this extravagant system of caring for our tuberculosis patients.

There is need, too, of some restriction to prevent indigent sanatorium patients from marrying. I recall the case of a patient whose board we had been paying for quite a long time at a sanatorium. He and a woman patient at the institution obtained permission to remain away from the institution for a day or two. The day after they left they were married and both returned to the institution. The man had a Haverhill settlement, but the woman had never gained one, at least not in Haverhill. The moment she married, however, she took her husband's settlement, which made our city liable for the expense of the support of both the man and the woman. They are still in a sanatorium at our expense, and if children should be born of this marriage, they, too, will become public charges, and the tax-

payers of Haverhill must pay the expense of their support.

It is obvious, if we are to make any headway in the suppression of tuberculosis and in materially lessening unnecessary expense, all must combine, and it is incumbent upon us to use our personal efforts to have our laws changed or amended if they do not furnish the protection or accomplish the purpose desired, and put a stop to a condition of affairs that is little short of medieval.

Our attempts to isolate persons ill with communicable diseases other than tuberculosis, and to make proper provision for their medical care, have sometimes been disheartening. To cite one or two cases may be of interest.

A girl, eleven years old, was ill with typhoid fever. She was a member of a Polish family, consisting of the father and mother, and, including the sick girl, four children. Their dwelling was a one-story, two-room structure, consisting of a kitchen and a sleeping room for the whole family. There were no house sewerage facilities, and the liquid wastes were thrown on the surface of the ground. The privy-pit, simply a shallow hole dug in the ground, was open at the back, permitting the access of flies to the excrement deposited therein, and its contents overflowed on the surface of the ground about twenty feet distant from a well used as a source of water supply for the family, and only a few feet distant from the dwelling. Mounds of human excrement were scattered about the yard, including stools from the patient, and the two living rooms were swarming with flies from the yard and the privy

pit. There was no physician in attendance upon the sick child, and at the time of my second visit in company with our city physician, the patient carried a temperature of 103° and a pulse of 140. The mother was absent at work in a shop, but the father happened to be at home at the time of this visit. After every possible effort had been made to obtain the father's consent for the removal of the sick child to the hospital, an application was made to the District Court to warrant such removal. Although there is no provision of law for it, the judge refused to issue the warrant without a hearing to the father, who must be given twenty-four hours' notice, and not even then until the record of the Board of Health showed a vote declaring that "in the opinion of the Board, the patient could not be properly isolated in her home." All these proceedings occupied a great deal of time. In the meantime, the girl continued to grow worse.

At the hearing in the court after summons to the parent, the father was finally induced to consent to the removal of the child and the warrant was, therefore, not served.

If, instead of a minor child sick with typhoid fever, the case had been that of a man ill with smallpox, for example, and the afflicted person had demanded and the court required a hearing, the situation would have been a serious one for the citizens of Haverhill. This situation, under the present laws of Massachusetts, or the court's interpretation of them, is liable to appear at any time.

By careful nursing at the hospital,

notwithstanding the delay in providing for her proper care, the patient made a very good recovery and there was no spread of typhoid fever from this case.

B was the case of a man ill with scarlet fever, and suffering from temporary mental derangement. A few days after, this man, of powerful physique, was isolated at his home, he became violent, and his wife and the attending physician applied to us for assistance in restraining him. He had escaped from his home and was, after a prolonged search, found in a stable connected with an ice-house, running about the place armed with a pitchfork, and threatening to attack any person who approached him. He was finally induced to return to his home, and we secured the services of a special policeman to nurse and restrain him. Later he became so violent that it required the services of three men to restrain him, and put him in a straight jacket to prevent possible injury to himself. We then applied to the court to have the man temporarily committed under the provisions of one of two statutes, the one providing that "persons suffering from diseases dangerous to the public health may be removed to a hospital on a warrant issued by the court," and the other under the law providing for the "temporary commitment to an institution of a temporarily insane person who is in need of immediate care and who is cared for by the board of health."

The judge would allow neither. Two physicians filed information that the man was ill with scarlet fever and was suffering from mental derange-

ment, and was at the time insane although they believed that he would recover his reason. The judge informed me that he had no authority to issue a restraining order or warrant without a hearing, which, of course, considering the man's condition, was absolutely impossible. I called the attention of the judge to the fact that there was no provision of law for a hearing in the case of a commitment to a hospital of a person sick with a disease dangerous to the public health. To this he answered "that it was the inherent right of every man to be given a hearing, and that he didn't care if twenty-five persons contracted scarlet fever from exposure to a scarlet fever patient, and declared that he would order no one committed without a hearing." Shortly after this consultation, the man again escaped from his bed, jumped from a second-story window, and disappeared until eleven o'clock that night.

After the court's decision, the physician in attendance did not again dare to place the man in a straight jacket, and the police department refused to give the board of health further service. Unable to have the man committed or to restrain him at his home, despite the pleas of his wife who was badly frightened, we were in a quandary as to what course of procedure to take. Finally, however, the attending physician was able to get in touch with members of a fraternal organization to which the patient belonged, and this organization sent men to nurse and guard him. It is superfluous to say that the attitude of the courts is of vital importance to health officials

in their efforts to conserve the health of the people.

The impression has arisen that the powers granted to health departments for the purpose of safeguarding the public health are so sweeping in character that they have in their own right practically limitless power. Necessarily extensive as these administrative powers are, it is a misapprehension to conceive them as absolute. Both in practice and in theory the effective action of health boards depends upon the courts, and a health officer's efforts are often rendered idle unless these courts stand ready to apply the just force of the law when convinced of the facts.

Some of the judges that preside in our law courts do not appear to be men of very great breadth of vision. They were lawyers before they were judges, and in their zeal to protect the rights of the individual they sometimes appear to lose sight of the fact that communities have some rights, which it is the duty of these judges, as paid public officials, to assist in safeguarding.

It is essential that a greater degree of confidence should be placed in the judgment and discretion, and the spirit of fairness and sincerity and good faith of health officials, who presumably are better qualified to pass upon questions of health and sanitation, and of what is necessary to be done without delay, than anyone else.

Doctor Evans of Chicago once said, in referring to the law as it relates to health boards, "If these decisions (of the courts) are studied, it will be found that in many instances the judges have

had to read facts into the evidence and quite frequently they read expert opinion as well. These facts and opinions are usually the opinions of the judges based upon their observations of matters of everyday life. There are certain lines in which their experiences eminently qualify these gentlemen. There are others where they do not."

There is a suggestion of such kind of judicial interference in a recent decision of the Supreme Court of the State of New Jersey, in the case of the Board of Health of Cranford Township in Union County versus Court of Common Pleas in and for Union County et al. To quote it may be interesting:

"It is not," the court said, "within the legislative intent, in enacting legislation conferring upon local boards of health the power to prescribe quarantine regulations in a district or locality infected with a contagious disease, to subject the discretion of such boards to the review of the local courts for the purpose of substituting the judgment of such tribunal for that of the board to which the power is specifically committed."

It may be of interest to this conference to know that last year a case arose on the petition of habeas corpus in the Supreme Court of Massachusetts, brought by Andrew McCarthy against the superintendent of our city hospital. McCarthy alleged in substance that he had been taken without a hearing before a magistrate, that he was forcibly detained and that he did not have tuberculosis. Upon the hearing before Judge ———, the medical testimony was that he was

infected with tuberculosis. We tried very hard to have the court consider the legal situation with reference to the constitutionality of the statute, but he refused to do this and remanded the petitioner to the custody of the agent of the board of health of Haverhill, on the general grounds that the man was better off at the city hospital than at home. While the decision as it stands upon the record was averse to the petitioner, the case as decided did not in any way clear the legal question, and throws no light one way or the other. In an off-hand way during the progress of the case, Judge —— said he doubted the right of any board of health to take a person infected with tuberculosis without a hearing before a magistrate, but he declined to decide that point of the case, so that his remarks were merely dicta. This man was taken to our hospital on a warrant issued by one of the judges of the Central District Court in Haverhill, under the provisions of section 46 of Chapter 75 of the Revised Laws, which reads as follows:

"A magistrate authorized to issue warrants in criminal cases may issue

a warrant directed to the sheriff of the county or his deputy, or to any constable or police officer, requiring him, under the direction of the board of health, to remove any person who is infected with contagious disease, or to impress and take up convenient houses, lodging, nurses, attendants and other necessities. The removal authorized by this section may be made to any hospital in an adjoining city or town established for the reception of persons having smallpox or other diseases dangerous to the public health, providing the assent of the board of health of the city or town to which such removal is to be made shall first have been obtained."

To the ordinary man on the street both the language and the intent of this statute would seem to be quite clear and unmistakable; but the super-strict and technical narrow-mindedness of trial judges, or at least some of them, does not permit them to give this statute, in the interest of public health, a broad and liberal interpretation in order to carry out its manifest and wholesome purpose and object.

Discussion.

MR. PRENDERGAST: As one of the trustees of the four state sanatoria, I cannot agree with the previous speaker. I think the worst element that we have in the success of those hospitals is the incorrigible, and we will continue to have him. In fact, in one of our institutions we have to discharge at least two patients a week as being incorrigible, being ones that we cannot do anything with, who are a menace to themselves and a menace to the other patients. In regard to the couple referred to in the able paper which was so well read by Doctor Washburn, I would say that that couple has turned

out very well indeed. The only time they broke the law was when they fell in love; I believe there is no law against that, because I believe that wherever there is love there is some fever. The young couple, at the suggestion of Doctor Washburn, was transferred to one of the other institutions; since that time, about twelve months ago, the wife was discharged as cured and is learning to become a nurse, and yesterday I got a report from the same institution that the husband has just been discharged as improved and has been hired as an orderly, both giving excellent satisfaction.